

In the Matter of Merchant Mariner's Document Z-62646

Issued to: OTILIO DE JESUS

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

342

OTILLIO DE JESUS

This case comes before me by virtue of Title 46 United States Code 239 (g) and Title 46 Code of Federal Regulations 137.11-1.

On 6 April, 1949 Appellant appeared before an Examiner of the United States Coast Guard at New York, charged with "misconduct" for that while serving as an Able Seaman on the SS AGWISTAR under authority of his duly issued Merchant Mariner's Document Z-62646, on 27 January, 1949 he unlawfully had in his possession a certain quantity of Marihuana - to wit, approximately 1 pound.

Appellant was represented by counsel who also served as interpreter for Appellant and entered a plea of guilty to the charge and specification. After hearing the report of the Investigating Officer and the argument by counsel for Appellant, the Examiner entered an ordered revoking appellant's Merchant Mariner's Document aforesaid together with all other documents or certificates now held by the Appellant.

From that order this Appeal has been taken and it is now urged:

- (1) Appellant had pleaded guilty to the charge;
- (2) That five members of his family will suffer if the order is made effective;
- (3) That full consideration should be given the fact that Appellant has been a seaman since 1939 and has never had trouble before this occasion; and
- (4) If reinstated, Appellant will not ever again violate any laws.

Based upon my examination of the record and the admissions of Appellant speaking through his counsel, I make the following

FINDING OF FACT

On 27 January, 1949, Appellant was serving as an Able Seaman on the American SS AGWISTAR under authority of his duly issued Merchant Mariner's Document Z-62646.

On that date said vessel was at pier 36 North River, New York and the Customs Officer made 7 seizures of Marihuana in various quantities.

This Appellant was taken into custody by the Custom Authorities and when arraigned before the United States Commissioner, he waived hearing and later pleaded guilty and was sentenced by the Federal Court but placed on probation for 2 years.

Appellant had purchased 1 pound of Marihuana in Tampico, Mexico, for his own use. Appellant has been going to sea for the past 9 years and the only other offense in which the Coast Guard was interested was minor in nature for which he was admonished in November, 1944.

OPINION

I have carefully considered all the points raised by this Appeal but find no reason to disturb the order of the Examiner dated 6 April, 1949. That Appellant intended to use the narcotic himself instead of offering it for sale does not warrant any departure from the well established policy which revokes Merchant Mariner's Documents held by persons who, while serving in the American Merchant Marine, take any part in the traffic of Marihuana. As I have so often observed this policy is not designed to punish an individual but is intended to protect as far as possible other American Merchant seamen. In several cases which have come before me recently, I have announced my conviction that persons who use narcotics or drugs are not desirable as seamen in the American Merchant Marine.